

GARY G. KREEP (CA Bar No. 066482)
NATHANIEL J. OLESON (CA Bar No. 276695)
UNITED STATES JUSTICE FOUNDATION
932 "D" Street, Suite 3
Ramona, California 92065
Tel: (760) 788-6624
Fax: (760) 788-6414
Email: usjf@usjf.net

Attorneys for Plaintiff,
Gary A. Stein

IN THE UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF CALIFORNIA

SERGEANT GARY A. STEIN, United States)	Case No.:	
)	'12CV0816 H BGS	
Marine Corps, Camp Pendleton, California 92055;)	PLAINTIFF STEIN'S <i>EX PARTE</i> MOTION	
)	FOR TEMPORARY RESTRAINING ORDER,	
Plaintiff,)	AND ORDER TO SHOW CAUSE WHY A	
)	PRELIMINARY INJUNCTION SHOULD	
v.)	NOT ISSUE	
)		
COLONEL C.S. DOWLING, Commander,)		
)		
Weapons and Field Training Battalion, Camp)		
)		
Pendleton, California 92055; RAY MABUS,)		
)		
SECRETARY OF THE UNITED STATES)		
)		
NAVY, The Pentagon, Washington, D.C.;)		
)		
UNITED STATES DEPARTMENT OF)		
)		
DEFENSE, The Pentagon, Washington, D.C.;)		
)		
UNITED STATES OF AMERICA; and,)		
)		
BRIGADIER GENERAL DANIEL YOO.)		
)		
)		
Defendants.))		

**TO THE COURT AND ALL PARTIES AND THEIR RESPECTIVE ATTORNEYS OF
RECORD:**

Plaintiff U. S. Marine Corps Sergeant Gary A. Stein ("STEIN"), hereby makes this ex parte application to the Court for issuance of a Temporary Restraining Order("TRO") and Order to Show Cause re Preliminary Injunction to stop and enjoin Defendants, COLONEL C.S. DOWLING, RAY MABUS, SECRETARY OF THE UNITED STATES NAVY, UNITED STATES DEPARTMENT OF DEFENSE, UNITED STATES OF AMERICA, and, BRIGADIER GENERAL DANIEL YOO, as set forth in more detail in the accompanying points and authorities in support, from: (1) proceeding with administrative separation proceedings against STEIN.

This motion is based upon Federal Rules of Civil Procedure 65(b); upon the attached Memorandum of Points and Authorities; upon the Declaration of STEIN, and upon the Declaration of Gary G. Kreep, all filed herewith.

This Application for preliminary injunctive relief as set forth in the proposed TRO, filed herewith, is made upon the grounds that the conduct sought to be enjoined, if allowed to occur, will cause immediate and irreparable injury to STEIN, in that Defendants have scheduled administrative separation proceedings against STEIN on Thursday, April 5, 2012, which will result in his immediate discharge from the U.S. Marine Corps, under "less than honorable conditions." Issuing the TRO without notice will preserve the status quo pending a hearing on the requested Preliminary Injunction, as, given the intent of Defendants to discharge STEIN from service in the Marine Corps on Thursday, April 5, 2012, there is insufficient time for a noticed motion and hearing thereon.


STEIN also requests the Court to issue an Order to Show Cause affording DEFENDANTS the opportunity to appear and show cause why a Preliminary Injunction should not issue restraining and enjoining them in the same manner for the remainder of this litigation.

A copy of this Application, the accompanying Memorandum of Points and Authorities, supporting papers and the Summons and Complaint in this action, shall be sent to Defendants' and/or their

1 legal counsel, as applicable, by e-mail and/or overnight delivery and within one business day after the
2 date of the filing of this Application. See the Declaration of Gary G. Krep. STEIN is not, as of yet, aware
3 as to whether Defendants will oppose this Application. See the Declaration of Gary G. Krep.

4 Dated: April 2, 2012

5 Respectfully submitted,

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9 GARY G. KREP (CA Bar No. 066482)
10 NATHANIEL J. OLESON (CA Bar No. 276695)
11 UNITED STATES JUSTICE FOUNDATION
12 932 "D" Street, Suite 3
13 Ramona, California 92065
14 Tel: (760) 788-6624
15 Fax: (760) 788-6414
16 Email: usjf@usjf.net

17 Attorneys for Plaintiff, Gary A. Stein

18 **Of Counsel:**

19 J. MARK BREWER (TX Bar No. 02965010)
20 Brewer & Pritchard
21 Three Riverway, 18th Floor
22 Houston, TX 77056
23 Tel: (713) 209-2910
24 Fax: (713) 659-5302
25 brewer@bplaw.com

STEWART RHODES
OATHKEEPERS
5130 S. Fort Apache Road, Suite 215-160
Las Vegas, NV 89148
Tel: (702) 353-0627
rhodeslegalwriting@gmail.com

WILLIAM J. OLSON (VA Bar No. 15841)
HERBERT W. TITUS (VA Bar No. 41126)
JOHN S. MILES
JEREMIAH L. MORGAN
William J. Olson, P.C.
370 Maple Avenue, West, #4
Vienna, Virginia 22180-5615

Tel: (703) 356-5070
Fax: (703) 356-5085
wjo@mindspring.com

DAVID LOY (CA Bar No. 229235)
ACLU Foundation of San Diego & Imperial Counties
P.O. Box 87131
San Diego, CA 92138-7131
Tel: 619-232-2121
davidloy@aclusandiego.org